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SUBJECT: ISRAEL: FIFTH ANNUAL TRAFFICKING IN PERSONS REPORT

(2 OF 3)

REF: SECSTATE 273089

(SBU) This cable is the second part of a three-part message responding to reftel. Embassy point of contact is Jenifer Joyce, telephone number: 972-3-519-7437 and fax number: 972-3-519-7484.

Investigation and Prosecution of Traffickers

1A. Does the country have a law specifically prohibiting trafficking in persons -- both trafficking for sexual exploitation and trafficking for non-sexual purposes (e.g., forced labor)? If so, what is the law? Does the law(s) cover both internal and external (transnational) forms of trafficking? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of coercion or fraud? Are these other laws being used in trafficking cases? Are these laws, taken together, adequate to cover the full scope of trafficking in persons?

Section 203(a) of the penal law, enacted in July 2000, prohibits trafficking in persons for the purposes of sexual exploitation. According to the GOI, an indictment based on trafficking might also include charges such as rape, false imprisonment, retaining a passport, forced labor, exploitation of prostitution by means of coercion or fraud, or kidnapping for the purposes of prostitution. Judgments have typically reflected a narrow interpretation of the law, but court cases rendered in the summer of 2003 clarified that trafficking cases should not be narrowly construed. Exploitation is prohibited under section 431 of the Penal Law and is punishable by one year imprisonment. Withholding a passport is punishable by section 376A of the Penal Law and is punishable by one year imprisonment. Section 376 of the Penal Law prohibits forced labor and is punishable by one year imprisonment, but an amendment to this law to include trafficking in persons for labor, which would be punishable by up to ten years imprisonment, is currently being drafted. Fraud is prohibited by Sections 415 and 440 of the Penal Law and is punishable by up to five years imprisonment. The law for the prevention of infiltration (1954) prohibits the smuggling of persons across Israeli borders and carries a punishment of up to five years imprisonment. The GOI enacted no new legislation in 2004 regarding trafficking for sexual exploitation.

-- Labor trafficking: A government bill that would specifically prohibit trafficking for the purpose of enslavement and forced labor is expected to be submitted to the Ministerial Committee for Legislation in April 2005. The GOI enacted no new legislation in 2004 regarding labor trafficking.

1B. What are the penalties for traffickers of people for sexual exploitation?

Under section 203(a) of the penal code, a person selling or buying a person to deal in prostitution, or engaging in such selling or buying, can be imprisoned for up to 16 years. Anyone causing a person to leave his or her country of residence to engage in prostitution is subject to up to 10 years imprisonment. If the victim is a minor, the penalties are 20 years and 15 years respectively. The average sentences courts impose have increased in 2004 to eight to ten years, from an average in 2002 of one to three years.

-- For traffickers of people for labor exploitation?

According to District Attorney contacts, such traffickers are not specifically prosecuted for trafficking of labor because there is no specific law which addresses such trafficking, but a law specifically prohibiting trafficking for labor is being drafted.

1C. What are the penalties for rape or forcible sexual assault? How do they compare to the penalty for sex trafficking?

The penalties for trafficking are commensurate with those for rape and sexual assault. The penalty for rape is a maximum of 16 years in jail. If under aggravated circumstances, the maximum penalty is 20 years.

1D. Has the Government prosecuted any cases against traffickers? If so, provide numbers of investigations, prosecutions, convictions and sentences, including details on plea bargains and fines, if relevant and available.

According to the GOI, courts convicted 25 defendants in 28 TIP-related cases between March 2004 and February 2005. The sentences ranged from six months to 12 years imprisonment. The Israeli Police conducted 50 investigations of TIP cases during 2004, resulting in 103 arrests of suspects. Prosecutors filed 89 indictments for trafficking in persons for prostitution and related offenses, including 39 indictments for fraud, six indictments for forgery, eight indictments for aiding and abetting infiltration, and three indictments for withholding passports. In 15 of these indictments the accused were detained until the conclusion of their trials. In addition, 69 accused were detained during their trials, and 108 witnesses were housed in police-funded hostels.

During 2004, the Crime Unit in the Immigration Administration recommended filing indictments against employers of foreign workers in connection with 84 of its investigations. Prosecutors are still reviewing the evidence to determine whether to issue indictments.

The GOI reported that 13 TIP-related convictions resulted in plea bargains in 2004. Defendants in these cases received prison sentences ranging from six to 82 months. Many also were fined, with amounts ranging from NIS 2,000 to 25,000 (about USD 450 to 5,500). Each defendant in these 13 cases also received, in addition to the prison sentence, a suspended sentence that the defendant would have to serve on top of any sentence incurred for the same offense in the future. In Israel, the State Prosecutor may appeal a plea bargain, requesting a longer sentence, and the higher courts have increased sentences for several cases of trafficking over the past year, according to both GOI and NGO sources.

Specific cases against accused labor traffickers include The State of Israel vs. Or Le'david Ltd. et. al., in which an employer was indicted on five charges involving fraud, illegal employment, withholding passports and forgery. In another case, The State of Israel vs. Um Brothers Ltd. et. al., 16 charges of withholding passports were filed against the defendant-employer. The charges were filed as labor trafficking cases, but the defendants were prosecuted for "withholding passports," due to the absence of a specific law prohibiting trafficking of persons for labor.

No requirement exists in Israel for a speedy trial, nor are there jury trials. A case is usually heard by a judge in a series of hearings that can have intervals lasting several months.

1E. Is there any information or reports of who is behind the trafficking? For example, are the traffickers freelance operators, small crime groups, and/or large international organized crime syndicates? Are employment, travel and tourism agencies or marriage brokers fronting for traffickers or crime groups to trafficked individuals?

According to the GOI, small-scale international crime groups conduct most if not all of the trafficking in persons in Israel, and most criminals involved in trafficking are immigrants from the former Soviet Union. Some NGOs believe, however, that most of the traffickers are individual freelancers and small groups that work in cooperation with freelance agents and groups in Eastern Europe and the FSU. According to NGOs, some of these groups may work with manpower/employment agencies in source countries. Evidence shows that Israeli Bedouins are involved in smuggling women across the border from Egypt. NGOs charge that some employment/manpower agencies engage in activities that meet the definition of labor trafficking. No evidence exists that Israeli employment, travel and tourism agencies or marriage brokers are involved as fronts for traffickers or trafficked individuals, according to the government. NGO representatives concur that no evidence exists that Israeli employment, travel and tourism agencies are involved in sex trafficking, but note reports that Israeli employment agencies facilitate labor trafficking.

-- Are government officials involved?
No evidence exists that government officials are involved in TIP.

1F. Does the government actively investigate cases of trafficking?

Yes. Police guidelines clearly encourage the police to make

arrests and investigate fully any evidence of trafficking. The government investigated 460 cases involving trafficking in 2003, 602 cases in 2004 and 19 in January 2005, according to statistics provided by GOI officials. Of the 602 cases in 2004, only 50 were for trafficking persons for prostitution. The remaining 552 investigations involved related offenses, such as pandering, causing a person to engage in prostitution, soliciting prostitution and kidnapping.

-- Does the government use active investigative techniques in trafficking in persons investigations? To the extent possible under domestic law, are techniques such as electronic surveillance, undercover operations and mitigated punishment or immunity for operating suspects used by the government?

Yes. The police do use special investigative techniques, including the use of undercover agents, tracking devices and electronic surveillance, to the extent permitted by law. The prosecution can request mitigation of punishment for cooperating suspects. Plea bargains can be and sometimes are reached, although the court is free to reject them. In addition, the district attorney may grant cooperating suspects "state witness" status, which may include immunity from prosecution, as a means to secure evidence against other offenders.

-- Does the criminal procedure code or other laws prohibit the police from engaging in covert operations?

No. Police ordinance 5731-1971 authorizes the police to engage in covert operations for the purposes of discovering crime, preventing criminal offenses and apprehending criminals.

I.G. Does the government provide any specialized training for government officials in how to recognize, investigate and prosecute instances of trafficking?

Yes. In 2004, the government provided three training sessions, lasting five days each for 30 police officers each (a total of 90 officers), on how to recognize, investigate and prosecute TIP, investigate the source of the crime, and on how to counter money-laundering operations both in Israel and abroad.

I.H. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases?

In January 2004, the Israel Police conducted in Belarus the first-ever joint investigation with a foreign police force on trafficking of women. The operation is still ongoing and the police could not divulge details, but promised an update in March. They are hopeful this will open the door to other joint operations with Russia and Ukraine. In addition, cooperation between the Israeli and Russian police (the Unit Combating Organized Crime and the Russian State Attorney) expanded during 2004. This cooperation resulted in the arrest and indictment of a trafficking ring leader and several other individuals in the former Soviet Union. The government has also been pursuing a joint operation with Ukraine against an international network of traffickers that uses the falsified identity cards of Jewish Ukrainians to smuggle other individuals into Israel.

I.I. Does the government extradite persons who are charged with trafficking in other countries? If so, please provide the number. Does the government extradite its own nationals charged with such offenses? If not, is the government prohibited by law from extraditing its own nationals? If so, what is the government doing to modify its laws to permit the extradition of its own nationals?

The government may extradite Israeli nationals under the provisions of the Extradition Law 5714-1954, as amended in 2001, which specifically allows it to extradite any person charged with a penalty of more than one year to a country with which it has an extradition treaty. The GOI may also extradite an individual to any country that, along with Israel, is a party to a multilateral international convention that contains extradition provisions.

Israel also submits extradition requests to other countries in connection with trafficking cases in Israel.

The State of Israel in August 2004 requested from Bulgaria the extradition of an Israeli national, Shlomo Kozev, on trafficking in persons and related charges. As of the end of the reporting period, Kozev was on trial in the Tel Aviv District Court.

In response to an Israeli extradition request, Russian authorities arrested in September 2004 Israeli national Shota Shamelashvili on trafficking and related charges. As of the end of the reporting period, Shamelashvili's appeal of the extradition request was still pending in the Russian Supreme

Court.

In November 2004, the U.S. extradited Israeli national Yigal Mizrahi to Israel to face charges of pandering for the purpose of prostitution and related charges. The crimes Mizrahi was charged with were committed prior to Israel's legal prohibition in 2001 of trafficking in persons.

In another case, Israel requested the extradition of two unnamed individuals from Ukraine for TIP-related offenses. Extradition proceedings were underway in Ukraine at the close of the reporting period, although the individuals had not yet been arrested.

¶J. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level?

No evidence exists of government involvement in trafficking on a local or an institutional level.

¶K. If government officials are involved in trafficking, what steps has the government taken to end such participation? Have any government officials been prosecuted for involvement in trafficking or trafficking-related corruption? Have any been convicted?

Individual cases, noted above, exist in which police officers have received bribes or shielded brothels, but none have involved government officials.

¶L. If the country has an identified child sex tourism problem, how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin?

No evidence exists of child sex tourism in Israel.

-- Does the country's child sexual abuse laws have extraterritorial coverage (like the US PROTECT Act)?

Yes, section 15 of the Penal Law provides that when an Israeli citizen or resident violates abroad Israeli laws concerning child sexual abuse, he or she may still be charged in Israel with that crime, e.g., receiving sexual services of a child, child prostitution, child pornography, and trafficking in children.

¶M. Has the government signed, ratified and/or taken steps to implement the following international instruments?

-- ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. The government ratified ILO Convention 182 on December 16, 2004.

-- ILO Convention 29 and 105 on Forced or Compulsory Labor. The government ratified these conventions on July 7, 1955, and April 10, 1958, respectively.

-- The Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography. The government signed this protocol on November 14, 2001. Israel is currently in the process of initiating necessary amendments to its national legislation with a view to ratifying these conventions.

-- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. The government has not ratified this instrument, but signed it on November 14, 2001.

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